

Status: S Environment, En

Short Description: Concerning green roofs on large commercial and multifamily buildings.

Lead Division: State Building Code Council

Other Divisions Assigned To: [Facility Professional Services](#)

Liaison has already completed their final review.

Your Review

Initial Questions

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Bill misassigned to division

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Bill doesn't impact Department of Enterprise Services

Review Questions

1. Reviewer Role

What is your role?

Lead division analyst (agency lead)

2. Bill Summary

2A. What does the bill direct or require DES to do? List and summarize the sections that impact DES.

Section 2: Define terms used in the new sections 3 and 4. The SBCC is indirectly required to adopt these definitions in the codes where the green roof technical requirements will be located.

Section 3(1): (1) Requires the SBCC to adopt rules for green roof and solar requirements required by December 31, 2024, and specifies the SBCC must consider applicable national and international standards.

Section 3(2): Specifies that all covered buildings must include a combination of solar energy panels and green roof covering 70 percent of the gross roof area; and provides four compliance options.

Section 3(3): Specifies that green roof projects must be designed and constructed by qualified teams of contractors that include engineers, landscape architects, architects, and at least one green roof professional.

Section 3(4): Mandates a 5-year maintenance plan for green roof projects. The plan must include a minimum of two maintenance visits per year to ensure that the system is functioning properly.

Section 3(5): Specifies all green roof projects that meet the requirements of this section must be part of performance rating systems including the United States green building council leadership in energy and environment design program, sustainable sites, and the living architecture performance tool, which is specific to the design, installation, and maintenance of green roofs.

Section 3(6): Specifies green roof projects must be designed to facilitate inspection by local authorities to ensure ongoing energy and environmental performance.

Section 3(7): Provide an option for exception if an eligible building owner submits a request to the enforcing agency with a cash-in-lieu payment.

Section 3(8): Provides specific details for the cash-in-lieu payment; it should be based on the average actual cost of constructing a green roof, which is \$50 per square foot.

Section 3(9): Clarifies that the covered buildings granted a partial exemption by their local building permit office under this section must construct the remaining portion of green roof space in accordance with the ratios in subsection (2) of this section.

Section 3(10): Clarifies that the receipts collected from cash-in-lieu of construction payments must be collected by the local jurisdiction, and expenditures of these receipts may be used only to fund the implementation of climate resiliency programs within the local jurisdiction.

Section 4: Requires the Washington state institute for public policy to conduct a cost-benefit analysis on the use of biosolar, agrivoltaic, and blue/green roof systems on buildings with a floor area of 10,000 to 50,000 square feet in consultation with the department of ecology, department of commerce, and an organization that has experience conducting cost-benefit analyses on green roofing.

2B. How is this different from what DES currently does?

Section 3 has a major impact on the SBCC business:

1. The mandate doesn't specify which code will "host" the requirements for green roofs. There are provisions related to the plumbing code, the energy code, the electrical code, the building code (structural and non-structural provisions), and potentially the fire code (maintenance and inspections).

2. The bill requires rules adopted by the SBCC to consider applicable national and international standards; does it mean green building codes(s) must be adopted in the State of Washington?

3. The bill specifies that the green roof projects must be designed and constructed by qualified teams of contractors that include engineers, landscape architects, architects, and at least one green roof professional, but this exceeds the SBCC authority given by RCW 19.27. The enforcement and the administrative provisions related to enforcement are under the authority of the local jurisdictions.

4. In addition to the requirement for 70% of the rooftop to be covered with PV and green roofing, there is also a requirement for ongoing inspections. The SBCC cannot require these inspections; this exceeds the SBCC authority given by RCW 19.27. The enforcement and the administrative provisions related to enforcement are under the authority of the local jurisdictions.

5. The \$50/ft2 charge for other than flat roofs or where the HVAC/other rooftop structures and access take up more than 30% of the roof exceeds the SBCC authority as well.

6. The bill requires receipts collected from cash-in-lieu of construction payments to be collected by the local jurisdiction, and specifies that expenditures of these receipts may be used only to fund the implementation of climate resiliency programs within the local jurisdiction. It is unclear which party is responsible for auditing the receipts. If it is the SBCC, it can be considered an unfunded mandate.

2C. If you know, please explain what issues or concerns prompted this legislation, and if there was similar legislation introduced in the past.

3. Policy/Operational Impacts

3A. Policy and/or operational impacts

Major

3B. Describe the operational impacts. These may include changes to existing programs, benefits, processes, or systems.

Changes to existing programs and processes include, but it is not limited to the following: Setting up accounts, collecting fees, manage routine inspections, audit the collection of fees.

See also 2B.

3C. Will a policy or policies need to be created or updated, because of this bill?

Yes

If Yes, please describe what policies will need to be created or updated:

See 2B and 3B.

3D. Does the bill require DES to submit a report to the Legislature or another body?

No

If Yes, please describe the report requirements:

3E. If enacted, would this bill require a new rule or revise an existing rule?

Yes

If yes, identify the section of the bill and cite the affected rules:

This bill will require new chapters and/or sections in one or all of the following codes: International Building Code, International Plumbing Code, Washington State Energy Code, International Fire Code; or adoption of a new Green code.

4. Fiscal Impacts

4A. Estimate the annual fiscal impact.

More than \$50,000

4B. Describe the fiscal impact and (if possible) quantify the impact DES's operational/administrative resources, including the types and extent of resources needed.

Every three years the SBCC adopts 8 new building codes, including the Washington State Energy Code-Residential, and the Washington State Energy Code-Commercial. The adoption process includes review and evaluation of the model codes and the existing WA amendments, as well as review and evaluation of proposed WA amendments. The proposed amendments are submitted by stakeholders or driven by statutory mandates. The number of proposals continued to increase over the years; the complexity of the proposals and the necessary analysis continue to climb as well. The statutory change in 2018 introduced more complexity into the rulemaking and filing process for the state building code council. SBCC was added as an agency required to follow the requirements for significant legislative rules outlined in RCW 34.05.328. The initial evaluation of this change significantly underestimated the impact and associated workload increase. With this change all suggested code modifications must now ensure:

- Proposals are tracked and made public through the process, to include reviews and modifications
- Proponents and stakeholders are notified as to when their issues will be discussed.
- A cost-benefit analysis and small business economic impact statement is completed.
- Public comments are logged, posted and responded to as part of the rulemaking process.

This bill will require off-cycle rulemaking. The SBCC adoption cycle is currently set for Council and Advisory meetings to adopt the 2021 codes by December 2022. The development of green roof requirements may require at least 10 Technical Advisory Group (TAG) meetings for 2-3 Council members; three MVE and/or BFP Standing Committee meetings with 5-7 Council members; three additional Council meetings with 20 Council members.

Current staffing levels are unable to meet the need to perform the work. One additional FTE, Commerce Specialist 4 (aka Code Specialist 4) on a limited term until the rule is adopted by the Council.

Provide Link to Fiscal Note:

5. Stakeholder Impacts (external to DES)

5A. Overall effect on stakeholders:

Major

5B. Impacted Stakeholders

- State
- Local
- Unions

5C. Describe the impacts on all stakeholders including agencies, boards, governments (local, state), unions or any other identified stakeholders.

The bill will require the SBCC to adopt the requirements with off-cycle rulemaking. Local jurisdictions will be required to develop and adopt administrative provisions for permitting, inspection and maintenance, setting up special account(s), collect fees and earmark funds. Unions will need to train personnel.

A special TAG would need to be formed to get all of the stakeholder groups together to examine all of the cross-jurisdictional issues between the codes.

6. Amended Bill Impacts

How does the current amended version you've been assigned differ in impact compared to the last version you looked at?

7. Recommendations

7A. Do you recommend that we testify on this bill?

No

7B. If yes, on what issues?

7C. Proposed amendment(s):

7D. Should the bill be reviewed by the AG?

Yes

Is there any additional background that would be helpful?

The AG should look into the possibility of unfunded mandates.

Recommended Position

Neutral

Explanation

The SBCC has directed staff to select neutral unless the SBCC directs staff to do otherwise.

Recommended Priority

High

Is your review complete?

